

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JOSEPH COLLINS, as personal)
representative and next of kin of JOSEPH)
LOU COLLINS BURKHART, deceased,)
)
Plaintiff,) No.: 3:22-CV-358-KAC-JEM
)
v.)
)
RUSSELL RUSZKOWSKI, in his individual)
capacity; NEW TAZEWELL, TENNESSEE;)
and CLAIBORNE COUNTY, TENNESSEE,)
)
Defendants.)

ORDER ADOPTING REPORT & RECOMMENDATION

Before the Court is United States Magistrate Judge Jill E. McCook’s “Report and Recommendation” (“Report”) entered on October 19, 2023 [Doc. 26]. On August 5, 2023, Plaintiff Joseph Collins filed a “Motion for Leave to File First Amended Complaint Joining Additional Personal Representatives for Decedent” [Doc. 17], which proposed to add “Decedent’s mother (Shawn Burkhart) and sister (Lacey Smith) as additional plaintiffs/personal representatives” [Id. at 1].

The Report recommends that the Court grant in part and deny in part Plaintiff’s Motion and require Plaintiff to file his proposed Amended Complaint within seven (7) days [Doc. 26 at 5]. Specifically, the Report reasons that under the Tennessee wrongful death statute Shawn Burkhart’s claim would be superior to Lacey Smith’s claim [Id. at 4]. Therefore, the addition of Lacey Smith as a personal representative would be inappropriate and permitting such an amendment would be futile [Id.]. Neither Party has objected to the Report, and the time to do so has passed. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

After reviewing the record, the Court **ACCEPTS** and **ADOPTS** the Report [Doc. 26] under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2). The Court **GRANTS IN PART AND DENIES IN PART** Plaintiff's "Motion for Leave to File First Amended Complaint Joining Additional Personal Representatives for Decedent" [Doc. 17]. Plaintiff **SHALL** file an Amended Complaint consistent with this Order within **seven (7) days** of the entry of this Order.

IT IS SO ORDERED.

s/ Katherine A. Crytzer
KATHERINE A. CRYTZER
United States District Judge